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ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
DIVISION OF WATER  
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LEONARD K. PETERS  
SECRETARY

**FACT SHEET**

**KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM  
PERMIT TO DISCHARGE TREATED WASTEWATER  
INTO WATERS OF THE COMMONWEALTH**

KPDES No.: KY0105996      Permit Writer: William Shane      Date: January 1, 2009  
AI No.: 74444

1. **SYNOPSIS OF APPLICATION**

a. Name and Address of Applicant

Hart County Stone  
1683-B Burkesville Road  
Glasgow, Kentucky 42141

b. Facility Location

Indian Creek Quarry  
KY 259  
Brownsville, Edmonson County, Kentucky

c. Description of Applicant's Operation

Operation of a natural asphalt rock (Kyrock) surface mining quarry (SIC Code 1422)

d. Design Capacity

Not Applicable (Precipitation Dependent)

e. Description of Existing Pollution Abatement Facilities

Precipitation-based drainage flows through a sedimentation pond into an oil-water separator before being discharged

f. Permitting Action

This is a reissuance of a minor KPDES permit for a natural asphalt rock quarry.

2. **RECEIVING WATER**

a. Name

Facility discharges to an unnamed tributary of Indian Creek.

b. Stream Segment Use Classification

Pursuant to 401 KAR 5:026, Section 5, UT to Indian Creek carries the following classifications: Warmwater Aquatic Habitat, Primary and Secondary Contact Recreation, Domestic Water Supply

c. Stream Segment Categorization

Pursuant to 401 KAR 5:030, Section 1 UT to Indian Creek is categorized as High Quality Waters.

d. Stream Low Flow Condition

The 7-day, 10-year low flow and harmonic mean conditions of UT to Indian Creek are 0.00 cfs and unavailable, respectively.

### 3. REPORTED DISCHARGE AND PROPOSED LIMITS

Serial Number 001 - Precipitation-based drainage from quarry

Effluent Characteristics	Reported Discharge		Proposed Limits		Applicable Water Quality Criteria and/or Effluent Guidelines
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	
Flow (MGD)	Variable	Variable	Report	Report	401 KAR 5:065, Section 2(8)
Precipitation (inches)	Variable	Variable	Report	Report	401 KAR 5:065, Section 2(8)
Settleable Solids (ml/l)	Variable	Variable	Not to exceed 0.5		401 KAR 5:080, Section 1(2)(c)2
Oil & Grease (mg/l)	Variable	Variable	10	15	401 KAR 5:080, Section 1(2)(c)2
pH (standard units)	Variable	Variable	6.0 (min)	9.0 (max)	401 KAR 5:031, Section 4

4. METHODOLOGY USED IN DETERMINING LIMITATIONS

a. Serial Number

Outfall 001 - Precipitation-dependent drainage from quarry

b. Effluent Characteristics

Flow, pH, Settleable Solids, Oil & Grease, Precipitation

c. Pertinent Factors

Green River from mile point 181.7 to mile point 207.8 has been designated as an Exceptional Water pursuant to the requirements of 401 KAR 5:030, and an Outstanding State Resource Water (OSRW) due to the presence of the endangered species of mussel, *Cyprogenia stegaria* and *Pleurobema plenum* pursuant to the requirements of 401 KAR 5:026, Section 5. Indian Creek discharges to the Green River at mile point 182.5.

d. Monitoring Requirements

Instantaneous flow measurements shall be collected twice per month.

Precipitation, Settleable Solids, and pH shall be monitored twice per month by grab sample.

Oil & Grease shall be monitored once per month by grab sample.

Samples are to be collected during normal working hours.

e. Justification of Conditions

The Kentucky regulations cited below have been duly promulgated pursuant to the requirements of Chapter 224 of the Kentucky Revised Statutes.

Flow and Precipitation

The monitoring requirements for these parameters are consistent with the requirements of 401 KAR 5:065, Section 2(8)(a).

Settleable Solids

The limits for this parameter are consistent with the requirements of 401 KAR 5:080, Section 1(2)(c) 2. These limits are representative of the Division of Water's "Best Professional Judgment" (BPJ) determination of the "Best Practicable Technology Currently Available" (BPT) and "Best Available Technology Economically Achievable" (BAT) requirements for these pollutants. The Division of Water based its determination on the nationally promulgated effluent guidelines for coal mining. It is the opinion of the Division of Water that the mining methods and wastewater treatment for these minerals are sufficiently similar to those associated with coal mining to justify application of the same requirements.

Oil & Grease

The limits and monitoring requirements for this parameter are consistent with the requirements of 401 KAR 5:080, Section 1(2)(c) 2. These limits are representative of the Division of Water's "Best Professional Judgment" (BPJ) determination of the "Best Practicable Technology Currently Available" (BPT) and "Best Available Technology Economically Achievable" (BAT) requirements for these pollutants.

pH

The limits for this parameter are consistent with the requirements of 401 KAR 5:031, Section 4.

5. **ANTIDEGRADATION**

The conditions of 401 KAR 5:029, Section 1 have been satisfied by this permit action. Since this permit action involves reissuance of an existing permit, and does not propose an expanded discharge, a review under 401 KAR 5:030 Section 1 is not applicable.

6. **PROPOSED COMPLIANCE SCHEDULE FOR ATTAINING EFFLUENT LIMITATIONS**

The permittee will comply with all effluent limitations by the effective date of the permit.

7. **PROPOSED SPECIAL CONDITIONS WHICH WILL HAVE A SIGNIFICANT IMPACT ON THE DISCHARGE**

Best Management Practices (BMP) Plan

Pursuant to 401 KAR 5:065, Section 2(10), a BMP requirement shall be included: to control or abate the discharge of pollutants from ancillary areas containing toxic or hazardous substances or those substances which could result in an environmental emergency; where numeric effluent limitations are infeasible; or to carry out the purposes and intent of KRS 224. The facility has several areas where support activities occur which have a potential of the discharge of such substances through storm water runoff or spillage. Some of these areas will drain to present wastewater treatment plants, others will not.

Exceptional Water and Outstanding State Resource Water - *Cyprogenia stegaria* and *Pleurobema plenum* Conditions

Green River from mile point 181.7 to mile point 207.8 has been designated as an Exceptional Water pursuant to the requirements of 401 KAR 5:030, and an Outstanding State Resource Water (OSRW) due to the presence of the endangered species of mussel, *Cyprogenia stegaria* and *Pleurobema plenum* pursuant to the requirements of 401 KAR 5:026, Section 5. Indian Creek discharges to the Green River at mile point 182.5. In order to adequately protect these classifications the following special conditions are being imposed pursuant to the requirements of 401 KAR 5:030, Section 1, 401 KAR 5:031, Section 7, and 401 KAR 5:065, Section 2.

A 100 foot buffer zone about the stream shall be maintained, thus prohibiting any in-stream disturbances or structures.

An in-stream monitoring program shall be developed and implemented to determine background (pre-mining disturbance conditions) and the impacts the activities are having on the stream. Continued stream monitoring shall be conducted throughout the life of the permit and shall consist of the same requirements as the pre-mining survey.

8. **PERMIT DURATION**

Five (5) years. This facility is in the Green\Tradewater Basin Management Unit as per the Kentucky Watershed Management Framework.

9. **PERMIT INFORMATION**

The application, draft permit, fact sheet, public notice, comments received and additional information is available from the Division of Water at 200 Fair Oaks Lane, Frankfort, Kentucky 40601.

10. **REFERENCES AND CITED DOCUMENTS**

All material and documents referenced or cited in this fact sheet are a part of the permit information as described above and are readily available at the Division of Water Central Office. Information regarding these materials may be obtained from the person listed below.

11. **CONTACT**

For further information on the draft permit or comment process, contact the individual identified on the Public Notice or the Permit Writer - William Shane at (502) 564-3410 extension 4893 or email William.Shane@ky.gov.

12. **PUBLIC NOTICE INFORMATION**

Please refer to the attached Public Notice for details regarding the procedures for a final decision, deadline for comments and other information required by 401 KAR 5:075, Section 4(2)(e).





# KPDES



## KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

# PERMIT

PERMIT NO.: KY0105996  
AI NO.: 74444

### AUTHORIZATION TO DISCHARGE UNDER THE KENTUCKY POLLUTANT DISCHARGE ELIMINATION SYSTEM

Pursuant to Authority in KRS 224,

Hart County Stone  
1683-B Burkesville Road  
Glasgow, Kentucky 42141

is authorized to discharge from a facility located at

Indian Creek Quarry  
KY 259  
Brownsville, Edmonson County, Kentucky

to receiving waters named

Unnamed tributary to Indian Creek

in accordance with effluent limitations, monitoring requirements and other conditions set forth in Parts I, II, III, and IV hereof. The permit consists of this cover sheet, and Part I 2 pages, Part II 6 pages, Part III 1 page, and Part IV 3 pages.

This permit shall become effective on.

This permit and the authorization to discharge shall expire at midnight,

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Sandra L. Gruzesky, Director  
Division of Water



A1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

During the period beginning on the effective date of this permit and lasting through the term of this permit, the permittee is authorized to discharge from Outfall serial number: 001 - Precipitation-dependent drainage from the quarry

Such discharges shall be limited and monitored by the permittee as specified below:

<u>EFFLUENT CHARACTERISTICS</u>	<u>DISCHARGE LIMITATIONS</u>				<u>MONITORING REQUIREMENTS</u>	
	(lbs/day)		Other Units (Specify)		Measurement <u>Frequency</u>	Sample <u>Type</u>
	<u>Monthly Avg.</u>	<u>Daily Max.</u>	<u>Monthly Avg.</u>	<u>Daily Max.</u>		
Flow (MGD)	Report	Report	N/A	N/A	2/Month	Instantaneous
Precipitation (inches)	N/A	N/A	Report	Report	2/Month	Grab
Settleable Solids (ml/l)	N/A	N/A	Not to exceed 0.5		2/Month	Grab
Oil & Grease (mg/l)	N/A	N/A	10	15	1/Month	Grab

The pH of the effluent shall not be less than 6.0 standard units or greater than 9.0 standard units and shall be monitored 2/Month by grab sample.

There shall be no discharge of floating solids or visible foam or sheen in other than trace amounts.

Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: nearest accessible point prior to discharge to or mixing with the receiving waters or wastestreams from other outfalls.

The abbreviation N/A means Not Applicable.

PART I  
Page I-2  
Permit No.: KY0105996  
AI No.: 74444

B. SCHEDULE OF COMPLIANCE

The permittee shall achieve compliance with all requirements on the effective date of this permit.

**STANDARD CONDITIONS FOR KPDES PERMIT**

This permit has been issued under the provisions of KRS Chapter 224 and regulations promulgated pursuant thereto. Issuance of this permit does not relieve the permittee from the responsibility of obtaining any other permits or licenses required by this Cabinet and other state, federal, and local agencies.

It is the responsibility of the permittee to demonstrate compliance with permit parameter limitations by utilization of sufficiently sensitive analytical methods.

The following KPDES permit conditions apply to all discharges authorized by this permit pursuant to 401 KAR 5:065, Section 1.

**(1) Duty to comply.**

**(a) General requirement.**

The permittee shall comply with all conditions of this permit. Any permit noncompliance shall constitute a violation of KRS Chapter 224, among which shall be the following remedies: enforcement action, permit revocation, revocation and reissuance, or modification; or denial of a permit renewal application.

**(b) Specific duties.**

1. The permittee shall comply with effluent standards or prohibitions established under 40 CFR Part 129 as of July 1, 2001, as adopted without change, within the time provided in the federal regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Any person who violates a permit condition as set forth in the KPDES administrative regulations shall be subject to penalties under KRS 224.99-010(1) and (4).

**(2) Duty to reapply.**

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit as required in 401 KAR 5:060, Section 1.

**(3) Need to halt or reduce activity not a defense.**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

**(4) Duty to mitigate.**

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

**(5) Proper operation and maintenance.**

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also shall include adequate laboratory controls, and appropriate quality assurance procedures. This provision shall require the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only if the operation is necessary to achieve compliance with the conditions of the permit.

**(6) Permit actions.**

The permit may be modified, revoked and reissued, or revoked for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, shall not stay any permit condition.

**(7) Property rights.**

This permit shall not convey any property rights of any kind, or any exclusive privilege.

**(8) Duty to provide information.**

The permittee shall furnish to the cabinet, within a reasonable time, any information which the cabinet may request to determine whether cause exists for modifying, revoking and reissuing, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the cabinet, upon request, copies of records required to be kept by this permit.

**(9) Inspection and entry.**

The permittee shall allow the cabinet, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records pertinent to the KPDES program are or may be kept;

(b) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment, including monitoring and control equipment, practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring KPDES program compliance or as otherwise authorized by KRS Chapter 224, any substances or parameters at any location.

**(10) Monitoring and records.**

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, or application. This period may be extended by request of the cabinet at any time.

(c) Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individuals who performed the sampling or measurements;
3. The dates analyses were performed;
4. The individuals who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of the analyses.

(d) Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in the permit.

(e) Any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under the permit shall, upon conviction, be subject to penalties under KRS 224.99-010(4).

**(11) Signatory requirement.**

All applications, reports, or information submitted to the cabinet shall be signed and certified as indicated in 401 KAR 5:060, Section 9. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be subject to penalties under KRS 224.99-010(4).

**(12) Reporting requirements.**

**(a) Planned changes.**

The permittee shall give notice to the cabinet as soon as possible of any planned physical alteration or additions to the permitted facility. Notice shall be required only if:

1. The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source in 401 KAR 5:080, Section 5; or
2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification only applies to pollutants which are subject either to effluent limitations in the permit, or to notification requirements under 401 KAR 5:080, Section 5.

**(b) Anticipated noncompliance.**

The permittee shall give advance notice to the cabinet of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

**(c) Transfers.**

The permit shall not be transferable to any person except after notice to the cabinet. The cabinet may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate other requirements as may be necessary under KRS Chapter 224.

**(d) Monitoring reports.**

Monitoring results shall be reported at the intervals specified in the permit. Monitoring results shall be reported as follows:

1. Monitoring results shall be reported on a Discharge Monitoring Report (DMR).
2. If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR.
3. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the cabinet in the permit.

**(e) Compliance schedules.**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.

**(f) Twenty-four (24) hour reporting.**

The permittee shall follow the provisions of 401 KAR 5:015 and shall orally report any noncompliance which may endanger health or the environment, within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. This report shall be in addition to and not in lieu of any other reporting requirement applicable to the noncompliance. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The cabinet may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours. The following shall be included as events which shall be reported within twenty-four (24) hours:

1. Any unanticipated bypass which exceeds any effluent limitation in the permit, as indicated in subsection (13) of this section.
2. Any upset which exceeds any effluent limitation in the permit.
3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the cabinet in the permit to be reported within twenty-four (24) hours, as indicated in Section 2(7) of this administrative regulation.

**(g) Other noncompliance.**

The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e), and (f) of this subsection, when monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this subsection.

**(h) Other information.**

Where the permittee becomes aware that it failed to submit any relevant fact in a permit application, or submitted incorrect information in a permit application or in any report to the cabinet, it shall promptly submit these facts or information.

**(13) Occurrence of a bypass.**

**(a) Bypass not exceeding limitations.**

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. This type of bypass shall not be subject to the provisions of paragraphs (b) and (c) of this subsection.

**(b) Notice.**

**1. Anticipated bypass.**

If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass. Compliance with this requirement constitutes compliance with 401 KAR 5:015, Section 1.

2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in subsection (12)(f) of this section, twenty-four (24) hour notice. Compliance with this requirement constitutes compliance with 401 KAR 5:015, Section 4.

**(c) Prohibition of a bypass.**

1. Bypassing shall be prohibited, and the cabinet may take enforcement action against a permittee for bypass, unless:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition shall not be satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The permittee submitted notices as required under paragraph (b) of this subsection.

2. The cabinet may approve an anticipated bypass, after considering its adverse effects, if the cabinet determines that it will meet the three (3) conditions listed in subparagraph 1a, b, and c of this paragraph.

**(14) Occurrence of an upset.**

**(a) Effect of an upset.**

An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of paragraph (b) of this subsection are met.

**(b) Conditions necessary for a demonstration of an upset.**

A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred and that the permittee can identify the causes of the upset;
2. The permitted facility was at the time being properly operated;
3. The permittee submitted notice of the upset as required in subsection (12)(f) of this section; and
4. The permittee complied with any remedial measures required under subsection (4) of this section.

**(c) Burden of proof.**

In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset shall have the burden of proof.



**(15) Additional conditions applicable to specified categories of KPDES permits.**

The following conditions, in addition to others set forth in this administrative regulation, shall apply to all KPDES permits within the categories specified below:

**(a) Existing manufacturing, commercial, mining, and silvicultural dischargers.**

In addition to the reporting requirements under subsections (12), (13), and (14) of this section, any existing manufacturing, commercial, mining, and silvicultural discharger shall notify the cabinet as soon as it knows or has reason to know:

1. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:"

a. 100 micrograms per liter (100 µg/l);

b. 200 micrograms per liter (200 µg/l) for acrolein and acrylonitrile; 500 micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one (1) milligram per liter (1 mg/l) for antimony;

c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 401 KAR 5:060, Section 2(7);

d. The level established by the cabinet in accordance with Section 2(6) of this administrative regulation.

2. That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels:"

a. 500 micrograms per liter (500 µg/l);

b. One (1) milligram per liter (1 mg/l) for antimony;

c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 401 KAR 5:060, Section 2(7); or

d. The level established by the cabinet in accordance with Section 2(6) of this administrative regulation.

**(b) POTWs.**

1. POTWs shall provide adequate notice to the cabinet of the following:

a. Any new introduction of pollutants into that POTW from an indirect discharger which would be subject to the KPDES administrative regulations if it were directly discharging those pollutants; or

b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

2. For purposes of this paragraph, adequate notice shall include information on the quality and quantity of effluent introduced into the POTWs and any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

**PART III**

OTHER REQUIREMENTS

A. Reporting of Monitoring Results

Monitoring results obtained during each monitoring period must be reported on a preprinted Discharge Monitoring Report (DMR) Form that will be mailed to you. The completed DMR for each monitoring period must be sent to the Division of Water at the address listed below (with a copy to the appropriate Regional Office) postmarked no later than the 28th day of the month following the monitoring period for which monitoring results were obtained.

Division of Water  
Bowling Green Regional Office  
1508 Western Avenue  
Bowling Green, Kentucky 42104  
ATTN: Bill Baker

Energy and Environment Cabinet  
Dept. for Environmental Protection  
Div. of Water/Surface Water Permits Branch  
200 Fair Oaks Lane  
Frankfort, Kentucky 40601

B. Reopener Clause

This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under 401 KAR 5:050 through 5:086, if the effluent standard or limitation so issued or approved:

1. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or
2. Controls any pollutant not limited in the permit.

The permit as modified or reissued under this paragraph shall also contain any other requirements of KRS Chapter 224 when applicable.

C. Exceptional Water and Outstanding State Resource Water - *Cyprogenia stegaria* and *Pleurobema plenum* Conditions

The Green River from mile point 181.7 to mile point 207.8 has been designated as an Exceptional Water pursuant to the requirements of 401 KAR 5:030, and an Outstanding State Resource Water (OSRW) due to the presence of the endangered species of mussel, *Cyprogenia stegaria* and *Pleurobema plenum* pursuant to the requirements of 401 KAR 5:026, Section 5. Indian Creek discharges to the Green River at mile point 182.5. In order to adequately protect this classification, the following special conditions are being imposed.

A 100-foot buffer zone about the stream shall be maintained, thus prohibiting any instream disturbances or structures. The permittee may request a variance from this condition provided an alternative analysis is performed and appropriate mitigation is proposed and implemented. This variance shall be in the form of a 401 Water Quality Certification, if a USCOE permit is obtained or similar Division of Water approval. The conditions of the 401 Water Quality Certification or Division of Water approval shall be automatically incorporated as conditions of this permit.

During mining activities, the permittee shall continue to collect data in accordance with the Plan of Study and the OSRW Protocols and submit data to the Division of Water for review. Submission of all related reports, studies, etc., shall be to the Inventory and Data Management Section of the Surface Water Permits Branch. All documents are to include the KPDES and DNR permit numbers on the title pages.

## **PART IV**

### **BEST MANAGEMENT PRACTICES**

#### **SECTION A. GENERAL CONDITIONS**

##### **1. Applicability**

These conditions apply to all permittees who use, manufacture, store, handle, or discharge any pollutant listed as: (1) toxic under Section 307(a)(1) of the Clean Water Act; (2) oil, as defined in Section 311(a)(1) of the Act; (3) any pollutant listed as hazardous under Section 311 of the Act; or (4) is defined as a pollutant pursuant to KRS 224.01-010(35) and who have ancillary manufacturing operations which could result in (1) the release of a hazardous substance, pollutant, or contaminant, or (2) an environmental emergency, as defined in KRS 224.01-400, as amended, or any regulation promulgated pursuant thereto (hereinafter, the "BMP pollutants"). These operations include material storage areas; plant site runoff; in-plant transfer, process and material handling areas; loading and unloading operations, and sludge and waste disposal areas.

##### **2. BMP Plan**

The permittee shall develop and implement a Best Management Practices (BMP) plan consistent with 401 KAR 5:065, Section 2(10) pursuant to KRS 224.70-110, which prevents or minimizes the potential for the release of "BMP pollutants" from ancillary activities through plant site runoff; spillage or leaks, sludge or waste disposal; or drainage from raw material storage. A Best Management Practices (BMP) plan will be prepared by the permittee unless the permittee can demonstrate through the submission of a BMP outline that the elements and intent of the BMP have been fulfilled through the use of existing plans such as the Spill Prevention Control and Countermeasure (SPCC) plans, contingency plans, and other applicable documents.

##### **3. Implementation**

If this is the first time for the BMP requirement, then the plan shall be developed and submitted to the Division of Water within 90 days of the effective date of the permit. Implementation shall be within 180 days of that submission. For permit renewals the plan in effect at the time of permit reissuance shall remain in effect. Modifications to the plan as a result of ineffectiveness or plan changes to the facility shall be submitted to the Division of Water and implemented as soon as possible.

##### **4. General Requirements**

The BMP plan shall:

- a. Be documented in narrative form, and shall include any necessary plot plans, drawings, or maps.
- b. Establish specific objectives for the control of toxic and hazardous pollutants.
  - (1) Each facility component or system shall be examined for its potential for causing a release of "BMP pollutants" due to equipment failure, improper operation, natural phenomena such as rain or snowfall, etc.

(2) Where experience indicates a reasonable potential for equipment failure (e.g., a tank overflow or leakage), natural condition (e.g., precipitation), or other circumstances which could result in a release of "BMP pollutants," the plan should include a prediction of the direction, rate of flow, and total quantity of the pollutants which could be released from the facility as result of each condition or circumstance.

- c. Establish specific Best Management Practices to meet the objectives identified under paragraph b of this section, addressing each component or system capable of causing a release of "BMP pollutants."
- d. Include any special conditions established in part b of this section.
- e. Be reviewed by plant engineering staff and the plant manager.

**5. Specific Requirements**

The plan shall be consistent with the general guidance contained in the publication entitled "NPDES Best Management Practices Guidance Document," and shall include the following baseline BMPs as a minimum.

- a. BMP Committee
- b. Reporting of BMP Incidents
- c. Risk Identification and Assessment
- d. Employee Training
- e. Inspections and Records
- f. Preventive Maintenance
- g. Good Housekeeping
- h. Materials Compatibility
- i. Security
- j. Materials Inventory

**6. SPCC Plans**

The BMP plan may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans under Section 311 of the Act and 40 CFR Part 151, and may incorporate any part of such plans into the BMP plan by reference.

**7. Hazardous Waste Management**

The permittee shall assure the proper management of solid and hazardous waste in accordance with the regulations promulgated under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1978 (RCRA) (40 U.S.C. 6901 et seq.) Management practices required under RCRA regulations shall be referenced in the BMP plan.

**8. Documentation**

The permittee shall maintain a description of the BMP plan at the facility and shall make the plan available upon request to EEC personnel. Initial copies and modifications thereof shall be sent to the following addresses when required by Section 3:

Division of Water  
Bowling Green Regional Office  
1508 Western Avenue  
Bowling Green, Kentucky 42104  
ATTN: Bill Baker

Energy and Environment Cabinet  
Dept. for Environmental Protection  
Div. of Water/Surface Water Permits Branch  
200 Fair Oaks Lane  
Frankfort, Kentucky 40601

9. **BMP Plan Modification**

The permittee shall amend the BMP plan whenever there is a change in the facility or change in the operation of the facility which materially increases the potential for the ancillary activities to result in the release of "BMP pollutants."

10. **Modification for Ineffectiveness**

If the BMP plan proves to be ineffective in achieving the general objective of preventing the release of "BMP pollutants," then the specific objectives and requirements under paragraphs b and c of Section 4, the permit, and/or the BMP plan shall be subject to modification to incorporate revised BMP requirements. If at any time following the issuance of this permit the BMP plan is found to be inadequate pursuant to a state or federal site inspection or plan review, the plan shall be modified to incorporate such changes necessary to resolve the concerns.

**SECTION B. SPECIFIC CONDITIONS**

Not applicable